

Town of Amherst
Zoning Board of Appeals - Special Permit

DECISION

Applicant: Andrew D. George

Date Application filed with the Town Clerk: December 2, 2004

Nature of request: Petitioner seeks to renew Special Permit ZBA FY 2002-00016, to convert an existing single-family home to a two-family residence (a duplex) by constructing a 30 x 24 foot two-story addition, on a non-conforming lot, under Sections 3.321 and 9.22 of the Zoning Bylaw.

Location of property: 250 Northampton Road (Route 9), (Map 13D, Parcel 30, R-N Zone)

Legal notice: Published in the Daily Hampshire Gazette on December 29, 2004, and January 5, 2005, and sent to abutters on December 21, 2004.

Board members: Zina Tillona, Tom Simpson and Barbara Ford

Submissions:

The applicants submitted the following documents:

- Management Plan for 250 Northampton Road, outlining responsibility for the care and maintenance of the property.
- Site Landscape Plan, prepared by William A. Cannon, dated 4/9/02, showing the property, the existing building and proposed addition, the proposed driveway and parking spaces, the existing and proposed planting and proposed lighting.
- Architectural plans and elevations, prepared by Ingram Associates, dated January 12, 2003, and approved on February 27, 2003 by the Zoning Board of Appeals.

The Planning Department submitted Memorandum #2005-01, which commented on the previous special permit, zoning, dimensional requirements, parking, planting, lighting, the management plan and historical issues.

Site Visit: January 11, 2005

Board members Zina Tillona, Tom Simpson and Barbara Ford attended the site visit. They were met by the applicant, Andrew George, and his attorney, Peter MacConnell. At the site visit the Board observed:

- The location of the site, situated along the south side of Route 9, adjacent to the Westside Historical Register District;
- The location of the existing and proposed driveway and parking areas;
- The location of the existing house and proposed addition;
- The existing "farmer's porch" which was constructed after the previous special permit was issued;
- The location of adjacent homes and their proximity to the subject lot;
- A pile of previously-excavated earth material located behind the house;
- The existing trees on the property and on adjacent properties, including a large pine tree near the property line at the rear of the site.

Public Hearing: January 13, 2005.

The public hearing was held in the Town Room, Town Hall. In the accordance with the requirements of the Conflict of Interest law, Mr. Simpson stated that his son is a tenant of Andrew George, at another address. Neither Mr. Simpson nor his son has a financial interest in the permit being considered here.

Attorney Peter MacConnell presented the petition, and made the following points:

- The applicant is seeking to renew the Special Permit ZBA FY 2002-00016, which he obtained two years ago, to convert a single-family house to a duplex, under Section 3.321 of the Zoning Bylaw.
- The house is located in the R-N zone.
- The proposed addition will be 24 feet x 30 feet in dimension.
- There will be three bedrooms in the proposed unit; there are 2 bedrooms in the existing unit.
- The structure and landscaping will be the same as that proposed for the previous special permit.
- Mr. George bought the house in 2001; he has done a substantial amount of renovation on the existing structure, which was in very poor condition when he bought it.
- Mr. George would like to begin construction in the spring of 2005.
- The lot complies with zoning dimensional requirements in every way except for frontage; the required lot frontage is 120 feet; the existing lot frontage is 80 feet.
- The lot size is adequate for two dwelling units; a total of 26,000 square feet is required for two dwelling units; the lot contains 26,403 square feet.

- Proposed building coverage and lot coverage comply with zoning requirements, as outlined on the Site Landscape Plan in the “Land Use Data” table, as follows:
 - Maximum allowed building coverage is 20%; existing building coverage is 2.4%; proposed building coverage will be 5.8%.
 - Maximum allowed lot coverage is 30%; existing lot coverage is 12%; proposed lot coverage will be 20.85%.
- The layout of the parking area will be the same as that proposed in 2002; there will be two parking spaces on the north side and two parking spaces on the south side of the house, for a total of four parking spaces.
- The applicant is requesting that the same conditions apply to this new special permit as were applied to the previous special permit.
- The leases for the two units will allow no more than four cars to be regularly parked on the site.
- The abutter on the west side of the lot in question has requested a specific time requirement for the planting of the proposed arborvitae hedge; Mr. George is willing to plant the hedge in the spring of 2005.
- The proposal meets the criteria set forth in Section 10.38 of the zoning bylaw.
- The problem of storm drainage, which flowed onto Route 9 and became frozen last winter, has been corrected by tying the drain line from the site into a new catch basin on Mr. George’s property and then connecting that to the drain system in the state Right of Way.

Mr. Mac Connell presented a written list describing how the proposal complies with the criteria of Section 10.38 of the Zoning Bylaw and he reviewed this list with the Board members, item by item.

Mr. Simpson asked if everything in this application was the same as in the previous application for Special Permit ZBA FY2002-00016. Mr. Mac Connell stated that everything was the same.

There was discussion of the language in the Management Plan, which used both the terms “owner” and “landlord.” Ms. Ford requested that the language be changed to be consistent. The Board concluded that the word “owner” should be used in the Management Plan, instead of “landlord.” The Board also noted that the snow and ice in the driveway were not managed well on the day of the site visit.

Ms. Tillona introduced for the record an email letter, received from Mike and Kim Como, of 260 Northampton Road, abutters to the west, asking for a reasonable completion date for the installation of the proposed arborvitae hedge. Ms. Weeks noted that, since Mr. George had not exercised his previous permit to build the addition, he was not obliged to install the hedge.

Barbara Ford MOVED to close the evidentiary portion of the public hearing. Tom Simpson SECONDED the motion. The Board VOTED unanimously to close the evidentiary portion of the public hearing.

Public Meeting

At the Public Meeting, the Board discussed conditions that might be established with reference to this permit.

Findings:

Under Zoning Bylaw Section 9.22 the Board found that the use as a duplex will not be substantially different in character or in its effect on the neighborhood or on property in the vicinity and the addition or alteration will not be substantially more detrimental to the neighborhood than the existing non-conforming condition of the single-family house on a non-conforming lot, because there are other multi-family houses in the neighborhood, the number of tenants and cars will be limited by the conditions of the permit, and the architectural design will be similar to houses in the neighborhood and to the existing house.

Under Zoning Bylaw Section 10.38 the Board found that:

- 10.380 and 10.381 The proposal is suitably located in the neighborhood and is compatible with existing uses because it is located on a heavily-traveled roadway, is close to Amherst College's Educational District and is in a neighborhood with other multi-family dwellings.
- 10.382 The proposal would not constitute a nuisance in that it does not create air or water pollution, flood, noise, dust, vibration, lights or visibly offensive structures.
- 10.383 The proposal would not be a substantial inconvenience or hazard to abutters, vehicles or pedestrians because it involves the addition of a single dwelling unit and the driveway has adequate turnaround area and access directly onto a major roadway.
- 10.384 Adequate and appropriate facilities would be provided for the proper operation of the proposed use because the applicant has provided floor plans of the proposed dwelling unit showing that there will be adequate space and appurtenances, the parcel is serviced by a public sewer and has its own well and is served by public transportation.
- 10.385 The proposal reasonably protects the adjoining premises against detrimental or offensive uses on the site because the owner has restored an old dilapidated house and the proposed addition will be visually compatible with the renovated house and with surrounding houses and the site plan shows that a hedge of arborvitae will be planted to shield the adjacent house to the west from headlights of

parking cars.

10.386 The proposal ensures that it is in conformance with the Parking and Sign regulations of the town because there are two parking spaces proposed to serve each dwelling unit, for a total of four spaces, and there are no proposed signs.

10.387 The proposal provides convenient and safe vehicular and pedestrian movement within the site, and in relation to adjacent streets, property or improvements because there is a separate parking area for each unit and there is adequate turnaround space so that cars will not have to back out onto Route 9.

10.389 The proposal provides adequate methods of disposal and/or storage for sewage, refuse, recyclables and other wastes because the site is serviced by a public sewer, there is a shed to hold refuse and recyclables and the property is properly drained.

10.390 and 10.391 The proposal ensures protection from flood hazards and protects unique or important natural, historic or scenic features because the property is not subject to floods and will have no impact on natural, historic or scenic features.

10.392 The proposal provides adequate landscaping because existing trees will remain, there will be plantings of shrubs in areas along the east and north sides of the house and a hedge of arborvitae planted along the west property line to protect the adjacent house from headlights of parking cars.

10.393 The proposal provides protection of adjacent properties by minimizing the intrusion of lighting because the exterior lights will be small, wall-mounted lights at the entries, typical of those normally found on a single-family residence and the neighbors to the west will be protected against the intrusion of headlights by the hedge referred to above.

10.394 The proposal avoids impact on steep slopes, floodplains, scenic views, grade changes and wetlands because there will be no substantial excavation or grading except that required for the house foundation and the removal of the pile of earth materials and there are no floodplains or wetlands on or near the site.

10.395 The proposal does not create disharmony with respect to the use, scale and architecture of existing buildings in the vicinity because the use is similar to surrounding uses, and the architecture is of a traditional farmhouse type that is similar in scale and design to that of surrounding houses.

10.397 The proposal provides adequate recreational facilities, open space and amenities for the proposed use because the lot is large and open and there is ample space for active and passive recreation for the tenants.

10.398 The proposal is in harmony with the general purpose and intent of the Zoning Bylaw because it protects the health, safety, convenience and general welfare of the inhabitants of the Town of Amherst.

Zoning Board Decision

Tom Simpson MOVED to approve the application, with conditions. Barbara Ford SECONDED the motion. For all the reasons stated above, the Board VOTED unanimously to GRANT a Special Permit, with conditions to Andrew D. George, to renew Special Permit ZBA FY 2002-00016, to convert an existing single-family home to a two-family residence (a duplex) by constructing a 30 x 24 foot two-story addition, on a non-conforming lot, under Sections 3.321 and 9.22 of the Zoning Bylaw, at 250 Northampton Road (Route 9), (Map 13D, Parcel 30, R-N Zone).

ZINA TILLONA

TOM SIMPSON

BARBARA FORD

FILED THIS _____ day of _____, 2005 at _____,
in the office of the Amherst Town Clerk _____.

TWENTY-DAY APPEAL period expires, _____ 2005.

NOTICE OF DECISION mailed this _____ day of _____, 2005
to the attached list of addresses by _____, for the Board.

NOTICE OF PERMIT or Variance filed this _____ day of _____, 2005,
in the Hampshire County Registry of Deeds.

Town of Amherst
Zoning Board of Appeals

SPECIAL PERMIT

The Amherst Zoning Board of Appeals, based on the site plan and architectural plans and elevations approved on February 27, 2003, and on the management plan approved January 13, 2005, hereby grants a Special Permit to Andrew D. George, to renew Special Permit ZBA FY 2002-00016, to convert an existing single-family home to a two-family residence (a duplex) by constructing a 30 x 24 foot two-story addition, on a non-conforming lot, under Sections 3.321 and 9.22 of the Zoning Bylaw, at 250 Northampton Road (Route 9), (Map 13D, Parcel 30, R-N Zone).

1. The two dwelling units in the building shall not contain more than a total of 5 bedrooms.
2. No more than 4 cars shall be permitted to park on the site on a regular basis; parking shall be confined to paved parking areas.
3. The siding on the exterior of the new units shall be compatible in material and color with that of the existing unit.
4. Both dwelling units must be hooked up to a public sewer.
5. Planting of the arborvitae hedge shall occur in the spring planting season of 2005, and shall be continuously maintained thereafter, with any arborvitae that fail to thrive being replaced as needed to maintain the screening.
6. Excess earth materials may not be left in piles. It must be incorporated into the landscape, appropriately graded and drained, or removed from the site.
7. All exterior lighting shall be down cast and shall not shine on to adjacent streets or properties.

ZINA TILLONA, Chair
Amherst Zoning Board of Appeals

DATE